

MAY 18 2006

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

**CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS**

FOR THE NINTH CIRCUIT

ROSY MAITE SANTOS-RODRIGUEZ;
et al.,

Petitioners,

v.

ALBERTO R. GONZALES, Attorney
General,

Respondent.

No. 04-74572

Agency Nos. A74-581-927
A74-581-928
A74-581-929

MEMORANDUM*

On Petition for Review of an Order of the
Board of Immigration Appeals

Submitted May 15, 2006**

Before: B. FLETCHER, TROTT and CALLAHAN, Circuit Judges.

Rosy Maite Santos-Rodriguez and her two minor children, Eduardo Josue Merida-Santos and Astor Donaldo Merida-Santos, natives and citizens of Guatemala, petition for review of an order of the Board of Immigration Appeals

* This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by 9th Cir. R. 36-3.

** The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

(“BIA”) dismissing their appeal from an immigration judge’s (“IJ”) order denying their applications for asylum, withholding of removal and protection under the Convention Against Torture. To the extent we have jurisdiction, it is conferred by 8 U.S.C. § 1252. We dismiss in part and deny in part the petition for review.

We lack jurisdiction to consider the petitioners’ claims that they received ineffective assistance of counsel and that the IJ erred by not allowing them to apply for adjustment of status because the petitioners failed to raise these issues on direct appeal to the BIA. *See Barron v. Ashcroft*, 358 F.3d 674, 676-78 (9th Cir. 2004).

To the extent the petitioners challenge the BIA’s December 8, 2004 order denying their motion to reopen, we lack jurisdiction because they did not file a timely petition for review of that order. *See* 8 U.S.C. § 1252(b)(1).

By failing to challenge the BIA’s order dismissing their appeal from the IJ’s denial of asylum, petitioners have waived the only issue properly before this court. *See Martinez-Serrano v. INS*, 94 F.3d 1256, 1259-60 (9th Cir. 1996).

PETITION FOR REVIEW DISMISSED in part; DENIED in part.